

LOCAL CIVIL RULE 5.7
(Proposed Amended , Effective January 1, 2005)

5.7 Filing and service by electronic means

- (a) General information; definitions - Pursuant to Rule 5(e) of the Federal Rules of Civil Procedure, the Clerk will accept pleadings and other papers filed and signed by electronic means in accordance with this rule. All papers filed by electronic means must comply with technical standards, if any, now or hereafter established by the Judicial Conference of the United States.

This rule shall apply to all civil actions maintained in the court's electronic case filing system. All documents, whether filed electronically or on paper, will be placed into the electronic case filing system, except for sealed documents and certain voluminous documents. Attorneys must file and serve all documents electronically by use of the ECF system unless (1) the attorney has been specifically exempted by the Court for cause or (2) a particular document is not eligible for electronic filing under this rule.

As used in this rule, the term

- “ECF system” means the electronic case filing system maintained by this Court;
- “registered attorney” means an attorney who is authorized pursuant to Rule 5.7(b) to file documents electronically and to receive service on the ECF system;
- “initial pleading” means the complaint, petition or other document by which a civil action is initiated;
- “electronically filed document” means any order, opinion, judgment, pleading, notice, transcript, motion, brief or other paper (except an initial pleading) submitted electronically to the ECF system;
- “traditionally filed document” means a pleading or other paper submitted to the Clerk in paper form for filing;
- “NEF” means the Notice of Electronic Filing generated by the ECF system;
- “nonelectronic means of service” means one of the methods of service authorized by Rule 5(b) of the Federal Rules of Civil Procedure, except electronic service under Rule 5(b)(2)(D).

(b) Mandatory registration; Attorney training

- (i) Every attorney practicing in this Court must register to file and serve documents electronically by the ECF system.
- (ii) To be entitled to register as a user of the ECF system, an attorney must be admitted to practice in this District, be a member in good standing, and have filed with the Clerk a completed ECF Attorney Registration form. In addition, the attorney or the attorney's firm must have a Public Access to Court Electronic Records (PACER) account and an e-mail address. Detailed registration information is available on the Court's Website (www.miwd.uscourts.gov). Upon receipt of the ECF Attorney Registration form, the Court will issue a login name and a user password to qualified attorneys. All registered attorneys have an affirmative duty to inform the Clerk immediately of any change in their e-mail address. A registered attorney may not allow another person to file a document using the attorney's login name and password, except for members of the attorney's staff. Use of an attorney's login name and password by a staff member is deemed to be the act of the attorney. If a login name and/or password should become compromised, the attorney is responsible for notifying the ECF Help Desk immediately.
- (iii) The Clerk's Office will provide periodic training sessions on use of the ECF system. The Court will also provide on its Website an on-line tutorial demonstrating the use of the ECF system. Law firms are encouraged to have individuals responsible for electronic filing (attorney, paralegal or automation specialist) attend a live training session or the on-line tutorial.

(c) Initial pleading - The filing of the initial pleading, issuance and service of the summons, and payment of initial filing fees must be accomplished in the traditional manner (not electronically). Attorneys, however, are strongly encouraged to accompany their initial pleading with a diskette or CD-ROM of their papers in portable document format (PDF), so that these documents can be added to the electronic case file.

(d) Electronic filing

- (i) Filing - All attorneys must file pleadings and other papers permitted by the Federal Rules and the Local Rules of this Court (except initial pleadings) electronically in all civil cases, subject to the exceptions set forth below. All electronically filed documents must be in PDF digital format and must be submitted in accordance with the

instructions set forth on the Court's Website in the User's Manual. Attorneys are strongly urged to accompany all *traditionally filed documents* with a diskette or CD ROM of their papers in PDF digital format, to facilitate adding the document to the electronic case file.

(ii) Papers that may not be filed electronically - The following documents must not be filed electronically, but must be submitted in paper form:

- (A) Documents filed under seal pursuant to W.D. Mich. LCivR 10.6;
- (B) The state-court record and other Rule 5 materials in habeas corpus cases filed under 28 U.S.C. § 2254;
- (C) Administrative records and transcripts in social security cases and transcripts or voluminous exhibits in other administrative review cases;
- (D) Handwritten papers or pleadings;
- (E) Any document or attachment thereto exceeding 5MB in size.

(iii) Documents that must be accompanied by a signed original - The following documents must be filed electronically but must be accompanied by a signed original document, with a copy served on all other parties:

- (A) Affidavits in support of or in opposition to a motion (affidavits of service may be filed electronically without filing a signed original);
- (B) Declarations under penalty of perjury;
- (C) Certified copies of judgments or orders of other courts.

The electronically filed version of such documents must contain an "s/_____" block indicating that the paper document bears an original signature.

(iv) Deadlines - Filing documents electronically does not in any way alter any filing deadlines. An electronically filed document is deemed filed upon completion of the transmission and issuance by the Court's system of an NEF. In situations where Rule 5.7(d)(vii) requires that attachments to an electronically filed document be submitted in paper form, the electronic document is deemed filed upon issuance of the

NEF, provided that the paper exhibits are filed and served within 72 hours thereof. In situations where Rule 5.7(d)(iii) requires filing of a signed, original document in addition to the electronic document, the document is deemed filed upon issuance of the NEF, provided that the signed original is filed within 72 hours thereof. All electronic transmissions of documents must be completed (i.e., received completely by the Clerk's Office) prior to midnight, Eastern Time, in order to be considered timely filed that day. Where a specific time of day deadline is set by Court order or stipulation, the electronic filing must be completed by that time.

- (v) Technical failures - The Clerk shall deem the Court's Website to be subject to a technical failure on a given day if the site is unable to accept filings continuously or intermittently over the course of any period of time greater than one hour after 12:00 noon (Eastern Time) that day, in which case, filings due that day which were not filed due solely to such technical failures shall become due the next business day. Such delayed filings must be accompanied by a declaration or affidavit attesting to the filer's failed attempts to file electronically at least two times after 12:00 noon separated by at least one hour on each day of delay because of such technical failure. The initial point of contact for any practitioner experiencing difficulty filing a document electronically shall be the ECF Help Desk, available via phone at (616) 456-2206 or (800) 290-2742, or via e-mail at ecfhelp@miwd.uscourts.gov.
- (vi) Official record; discarding of traditionally filed documents - For purposes of Rule 79 of the Federal Rules of Civil Procedure, the record of filings and entries created by the ECF system for each case constitutes the docket. The official record of all proceedings in civil cases filed on and after August 1, 2001, is the electronic file maintained on the Court's ECF system. After a case is closed and all appeals of right are completed, the Clerk's Office will discard all traditionally filed documents that are part of the electronic record.
- (vii) Exhibits and attachments - Filers must not attach as an exhibit any pleading or other paper already on file with the Court, but shall merely refer to that document. All exhibits and attachments, whether filed electronically or traditionally, must contain on their face a prominent exhibit number or letter. Exhibits too large to be filed electronically may be submitted traditionally. If one or more attachments or exhibits to an electronically filed document are being submitted traditionally under this rule, the electronically filed document must contain a notice of that fact in its text. For example:

(Exhibits 1, 2 and 3 to this Motion are filed electronically; Exhibits 4 and 5 are filed in paper form pursuant to Local Rule 5.7(d)(vii)).

or

(All exhibits to this brief are filed in paper form pursuant to Local Rule 5.7(d)(vii)).

(e) Signature

- (i) Attorneys - A registered attorney's use of the assigned login name and password to submit an electronically filed document serves as the registered attorney's signature on that document for purposes of Fed. R. Civ. P. 11 and for all other purposes under the Federal Rules of Civil Procedure and the Local Rules of this Court. The identity of the registered attorney submitting the electronically filed document must be reflected at the end of the document by means of an "s/[attorney's name]" block showing the attorney's name, followed by the attorney's business address, telephone number, and e-mail address.
- (ii) Multiple signatures - The filer of any electronically filed document requiring multiple signatures (e.g., stipulations, joint status reports) must list thereon all the names of other signatories by means of an "s/____" block for each. By submitting such a document, the filer certifies that each of the other signatories has expressly agreed to the form and substance of the document and that the filer has their actual authority to submit the document electronically. The filer must maintain any records evidencing this concurrence for subsequent production to the Court if so ordered or for inspection upon request by a party until one year after the final resolution of the action (including appeal, if any). A non-filing signatory or party who disputes the authenticity of a signature on an electronically filed document must file an objection to the document within 10 days after service of that document.
- (iii) Court reporters - The electronic filing of a transcript by a court reporter by use of the court reporter's login name and password shall be deemed the filing of a signed and certified original document for all purposes.
- (iv) Judges - The electronic filing of an opinion, order, judgment or other document by a judge (or authorized member of the judge's staff) by use of the judge's login and password shall be deemed the filing of a signed original document for all purposes.

- (v) Clerk of Court or Deputy Clerks - The electronic filing of any document by the Clerk of Court or by a Deputy Clerk by use of that individual's login and password shall be deemed the filing of a signed original document for all purposes.
- (vi) Office of the U.S. Marshal. The office of the U.S. Marshal for this District is authorized to file and serve documents electronically. The electronic filing of any document by the Office of the U.S. Marshal by use of the assigned login and password shall be deemed the filing of a signed original document for all purposes.
- (f) Proposed pleadings - If the filing of an electronically submitted document requires leave of court, such as an amended complaint or brief in excess of page limits, the proposed document must be attached as an exhibit to the motion seeking leave to file. If the Court grants leave to file the document, the Clerk of Court will electronically file the document without further action by the attorney.
- (g) Proposed orders - Proposed orders may be submitted electronically. All proposed orders must be in PDF format and must be: (1) attached as an exhibit to a motion or stipulation; or (2) contained within the body of a stipulation; or (3) submitted separately. If the Judge approves the proposed order, it will be refiled electronically under a separate document number.
- (h) Service of electronically filed documents
 - (i) Summons and initial pleading - Service of the summons and complaint or other initial pleading must be made by one of the methods allowed by Rule 4 of the Federal Rules of Civil Procedure and may not be made electronically.
 - (ii) Service on registered attorneys - By registering under this rule, an attorney automatically consents to electronic service by both the Court and any opposing attorney of any electronically filed document in any civil action in which the registered attorney appears. Consequently, service of an electronically filed document upon a registered attorney is deemed complete upon the transmission of an NEF to that attorney under subsection (h)(iv) of this rule and a separate certificate of service is not required to be filed. Traditionally filed documents must be served on registered attorneys by nonelectronic means of service.
 - (iii) Service on unregistered attorneys and *pro se* parties - If an opposing attorney is not registered under this rule, counsel filing any pleading or other paper must serve that attorney by nonelectronic means of

service. *Pro se* parties must be served by nonelectronic means of service under Rule 5.

- (iv) Method of electronic service - At the time a document is filed either electronically or by scanning paper submissions, the Court's system will generate an NEF, which will be transmitted by e-mail to the filer and all registered attorneys who have appeared on that case. The NEF will contain a hyperlink to the filed document. The attorney filing the document should retain a paper or digital copy of the NEF, which serves as the Court's date-stamp and proof of filing. Transmission of the NEF to the registered e-mail address constitutes service of an electronically filed document upon any registered attorney. Only service of the NEF by the Court's system constitutes electronic service; transmission of a document by one party to another by regular e-mail does not constitute service.
- (v) Effect on time computation - Electronic service under this rule is complete upon transmission. The additional three (3) days to do an act or take a proceeding after service of a document applies when service is made electronically, by virtue of Fed. R. Civ. P. 6(e).
- (i) Access to electronically stored documents - The general public, as well as any party to the litigation, may access and download any electronically stored document, with the following exceptions: (1) access to documents filed in social security cases is restricted to the attorneys of record; and (2) the Court may restrict access to other classes of documents by future order in conformity with resolutions of the Judicial Conference of the United States. The provisions of Local Civil Rule 10.7 concerning privacy apply to all electronically stored documents.
- (j) Facsimile transmissions - The Clerk will not accept for filing any pleading or other paper submitted by facsimile transmission.